

ORDINANCE NO. 352 N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES ADDING  
CHAPTER 9.06, ABATEMENT OF NUISANCE, TO THE MUNICIPAL  
CODE OF THE CITY OF EL PASO DE ROBLES

The City Council of the City of El Paso de Robles does ordain  
that new Chapter 9.06 be added to the Municipal Code of the City  
of El Paso de Robles as follows:

CHAPTER 9.06  
ABATEMENT OF NUISANCE

Sections:

- 9.06.010 Purpose and Scope
- 9.06.020 Definition of nuisance
- 9.06.025 Other definitions
- 9.06.030 Service of Notice
- 9.06.032 Notice of Nuisance (first notice)
- 9.06.035 Contents of notice of nuisance
- 9.06.040 Notice to abate nuisance (second notice)
- 9.06.045 Contents of notice to abate nuisance
- 9.06.050 Hearing
- 9.06.055 Order of the Board
- 9.06.060 Jurisdiction to abate
- 9.06.070 Disposal of materials
- 9.06.080 Account of costs and receipts and notice of  
assessment
- 9.06.082 Hearing on account and proposed assessment
- 9.06.085 Notice of lien
- 9.06.090 Lien
- 9.06.095 Collection with ordinary taxes

9.06.010 Purpose and scope. Any nuisance, as defined herein,  
existing in the City of El Paso de Robles, may be abated as provided  
herein. The procedure for said abatement provided herein shall  
not be exclusive, but shall be cumulative and in addition to any  
other abatement procedure provided by the laws of the State of  
California or the ordinances of the City of El Paso de Robles  
This Chapter is not intended to repeal Section 8.04 080 relating  
to animals which shall remain in full force and effect

9.06.020 Definition of nuisance. A nuisance is hereby de-  
fined to be:

(a) Any condition declared by any statute of the State of  
California or ordinance of the City of El Paso de Robles to be  
a nuisance.

(b) Any public nuisance known at common law or equity.

(c) Any condition dangerous to human life, unsafe, or  
deterimental to the public health or safety.

9.06.025 Other definitions.

(a) Enforcement official shall mean any employee or department head of the City of El Paso de Robles charged with the duty of enforcing ordinances of the City of El Paso de Robles or laws of the State of California.

(b) Owner shall mean the owner of record of the premises affected.

(c) Occupier shall mean the person occupying or otherwise in real or apparent charge and control of the premises affected.

(d) Beneficial owner shall mean any mortgagee of record; a beneficiary under a recorded deed of trust; or the owner or holder of any lease of record; provided, however, that the United States, the State of California, the County of San Luis Obispo, and the City of El Paso de Robles shall not be deemed to be beneficial owners by virtue of any lien for unpaid taxes.

(e) The City Council shall mean the City Council of the City of El Paso de Robles.

9.06.030 Service of notice. Any notice to be given by the provisions of this ordinance shall be deemed to have been given when:

(a) A copy of said notice is either served personally or has been deposited in the mail, postage prepaid, certified, return receipt requested, to every owner, occupier and beneficial owner of the premises affected, addressed to such person at his last known place of address. The failure of the enforcement official to make or attempt to make such service on any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served. If no address can be found or is known to the enforcement official, then any notice shall be so mailed to such person at the address of the premises affected by the proceedings. The failure of any person to receive such notice shall not affect the validity of any proceedings taken hereunder, and

(b) A copy of the notice is prominently and conspicuously affixed to the premises affected by the proceedings herein.

9.06.032 Notice of Nuisance (first notice). Upon the determination by the enforcement official that a nuisance exists, said

enforcement official shall prepare a Notice of Nuisance, and shall cause copies of said Notice of Nuisance to be served as provided in Section 9.06.030 herein.

9.06 .035 Contents of notice of nuisance. The Notice of Nuisance shall contain the following:

(a) A street address, legal description, or other description sufficient to identify the premises affected.

(b) A description of the condition causing the nuisance. Where the enforcement official has determined that the condition causing the nuisance can be corrected or abated by repair thereof, the notice shall state the repairs which will be required.

(c) Where the enforcement official has determined that the condition causing the nuisance is imminently dangerous to human life or limb, or is unsafe, or is detrimental to the public health or safety, he may order that the building or structure affected be vacated, pending the correction or abatement of the conditions causing the nuisance.

(d) An order to commence the abatement of said nuisance within 30 days, and to thereafter diligently prosecute and complete said abatement.

(e) A statement that if the required abatement is not commenced as prosecuted within the time limit specified, the enforcement official will apply to the City Council for an order to abate said nuisance, and that the costs of such abatement shall become a charge against the premises, and shall be made a special assessment against the premises, and that said special assessment may be collected at the same time and in the same manner as is provided for the collection of ordinary city taxes, and shall be subject to the same penalties, interest and to the same procedures of foreclosure and sale in the case of delinquency as is provided for ordinary city taxes.

9.06.040 Notice to abate nuisance (second notice). If, upon the expiration of the period specified in the Notice of Nuisance, action to abate the nuisance has not been commenced, or, if it has been commenced, it has not been prosecuted with due diligence nor completed within a reasonable time, the enforcement official shall cause a Notice to Abate Nuisance to be prepared and shall serve such notice as provided in Section 9.06.030 hereof.

9.06.045 Contents of notice to abate nuisance. The Notice to Abate Nuisance shall contain the following:

(a) A heading, "Notice to Abate Nuisance", in letters of not less than three-fourths of an inch in height.

(b) A notice to appear before the City Council for a hearing at a stated time and place, which said time and place shall be not less than 15 nor more than 30 days after service of said notice, to show cause, if any there be, why such condition should not be condemned as a nuisance, and why such nuisance should not be abated by the enforcement official.

9.06.050 Hearing. At the time and place specified in the Notice to Abatement Nuisance, the City Council shall proceed to hear testimony and consider other evidence concerning the conditions constituting such nuisance, the estimated cost of abatement, and such other matters as the City Council may deem pertinent. Any person affected may be present at such hearing, may be represented by counsel, may present testimony, and may cross-examine the enforcement official and other witnesses. The hearing need not be conducted according to technical rules relating to evidence and witnesses and may be continued from time to time.

9.06.055 Order of the City Council. Upon the conclusion of the hearing, the City Council may terminate the abatement proceedings, or it may order the owner or other affected person to abate the nuisance prescribing the requirements of such abatement, and prescribing a reasonable time, not less than 30 days, for the completion of such abatement. Such order may further provide that, in the event such abatement is not commenced, prosecuted and completed, in accordance with the terms set by the City Council, the enforcement official

shall be empowered and authorized to abate said nuisance. The order of the Council shall be served as provided in Section 9.06.030 hereof, and the time limits set by the City Council shall not commence until said order is served as provided therein.

9.06.060 Jurisdiction to abate. Upon the expiration of the time limits set by the City Council, as set out in Section 9.06.055 hereof, the enforcement official shall acquire jurisdiction to abate said nuisance.

9.06.070 Disposal of materials. The materials contained in any nuisance abated by the enforcement official may be disposed of, or, if directed by the City Council, sold in the same manner as surplus city personal property is sold, and the proceeds from such sale shall be paid into the abatement expenses fund.

9.06.080 Account of costs and receipts and notice of assessment. The enforcement official shall keep an itemized account of the costs of enforcing the provisions of this ordinance, and of the proceeds of the sale of any materials connected therewith. Upon the completion of the abatement, the enforcement official shall cause a notice to be prepared, specifying the work done, an itemized account of the costs and receipts of performing the work, an address, legal description or other description sufficient to identify the premises, the amount of the assessment proposed to be levied against the premises, or the amount to be refunded, if any, due to excess proceeds over expenses, and the time and place when and where the enforcement official will submit the account to the City Council for confirmation. The time and place specified shall be not less than 15 days after the service of the notice as provided in Section 9.06.030 hereof. The notice shall contain a statement that the City Council will hear and consider objections and protests to said account and proposed assessment or refund.

9.06.082 Hearing on account and proposed assessment. At the time and place fixed in the notice, the City Council shall hear and consider the account and proposed assessment, together with objections and protests thereto. At the conclusion of the hearing, the City Council may make such modifications and revisions of the proposed account and assessment as it deems just, and may order

the account and proposed assessment confirmed or denied, in whole or in part, or as modified and revised. The determination of the City Council as to all matters contained therein shall be final and conclusive.

9.06.085 Notice of lien. Upon confirmation by the City Council, the enforcement official shall cause to be prepared and recorded in the office of the County Recorder of the County of San Luis Obispo, a Notice of Lien. Said notice shall contain the following:

(a) An address, legal description or other description sufficient to identify the premises.

(b) A description of the proceedings under which the special assessment was made, including the order of the City Council confirming the assessment.

(c) The amount of the assessment.

(d) A claim of lien upon the described premises.

9.06.090 Lien. Upon the recordation of such Notice of Lien, the amount claimed shall constitute a lien upon the described premises. Such lien shall be upon a parity with the liens of State, County and City Taxes.

9.06.095 Collection with ordinary taxes. The Notice of Lien, after recordation, shall be delivered to the County Auditor who shall enter the amount of the lien on the assessment roll as special assessment. Thereafter the amount set forth shall be collected at the same time and in the same manner as ordinary city taxes are collected, and shall be subject to the same penalties and interest, and to the same procedures for foreclosure and sale in case of delinquency as is provided for ordinary city taxes, and all laws applicable to the levy, collection and enforcement of city taxes are hereby made applicable to such assessment.

PASSED AND ADOPTED this 4th day of June, 1973, by the following roll call vote, to-wit:

AYES: Councilmen Barnhart, Hanson, Minshull and Schwartz  
NOES: None  
ABSENT: Councilwoman Stockdale

ATTEST:

Donald Stockdale  
CITY CLERK

Barnhart Schwartz  
MAYOR